

AMENDED IN SENATE MAY 12, 2010  
AMENDED IN SENATE APRIL 22, 2010  
AMENDED IN SENATE APRIL 13, 2010  
AMENDED IN SENATE MARCH 25, 2010

**SENATE BILL**

**No. 1188**

---

---

**Introduced by Senator Wright**

February 18, 2010

---

---

An act to add Section 3049 to the Family Code, relating to child custody.

LEGISLATIVE COUNSEL'S DIGEST

SB 1188, as amended, Wright. Child custody: disabled parent.

Existing law requires a court to award custody of a child according to the best interest of the child, and further requires a court to grant reasonable visitation rights to a parent unless it is shown that the visitation would be detrimental to the best interest of the child. Existing law requires a court, when determining the best interest of the child, to consider the health, safety, and welfare of the child, among other factors.

This bill would provide that a parent's disability may not form the basis for an order granting child custody or visitation to another party, or for an order imposing a condition or limitation on custody or visitation, as specified, unless there is a finding that an award of custody or visitation to, or a condition or limitation on custody or visitation by, the disabled parent would not be in the best interest of the child, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 3049 is added to the Family Code, to  
2 read:

3     3049. (a) In any proceeding to determine child custody or  
4 visitation under this part, in which at least one parent is disabled  
5 ~~as defined by the Americans with Disabilities Act of 1990 (42~~  
6 ~~U.S.C. Sec. 12101 et seq.),~~ the disability of that parent may not  
7 form the basis for an order granting custody or visitation to another  
8 party, or for an order for imposing any condition or limitation on  
9 an award of custody to or visitation by the disabled parent, unless  
10 there is a finding by the court that a grant of custody or visitation  
11 to, or a condition or limitation on custody or visitation by, the  
12 disabled parent would not be in the best interest of the child. This  
13 section applies to any proceeding regarding custody or visitation,  
14 including, but not limited to, a request for a modification of an  
15 existing order for custody or visitation.

16     (b) *For purposes of this section, “disability” means any mental*  
17 *or physical disability as defined in Section 51 of the Civil Code*  
18 *and Sections 12926 and 12926.1 of the Government Code.*